

(1945) Department.

Me SERIES.

G.O. No. 3172
PH

Dated 10/2/1945

[Despatch Abstract.]

Hindu Religious Endowments Act - Sri Manjunath Temple -
Sharnastala village, South Kanara District - Exemption from the
operation of all the provisions of the Act - Cancelled.

Puttur Taluk.

1945
Office of the Board of Commissioners
for Hindu Religious Endowments,
Cathedral Post, Madras.

19118
Letter No. 44476/44-5-Adm dated ---1945.

From

Rao Bahadur Sri T.M.Chinnaiya Pillai, A., B.L.,
President, Hindu Religious Endowments Board, Madras.

To

The Secretary to the Government of Madras,
Education and Public Health Department,
Fort St. George, Madras.

Sir,

Sub: Devocation of exemption from the operation of the
Madras Hindu Religious Endowments Act, 1923 - South
Kanara District - Puthur Taluk - Dharmastala village -
Manjunath Temple.

24 (1)
p 3 c 1.
Under the proviso to sub-section (1) of Section 2 of the
Madras Hindu Religious Endowments Act, 1923 (Madras Act 1 of 1925)
the Government were pleased to exempt, as a special case, the
above temple from the operation of all the provisions of the Act
in G.O.No. 1115. 4924 dated 19-11-1926. In pursuance of Government
Memorandum No. 27007-F/43-1 P.H. dated 30th August 1943, proceedings
were taken for a re-examination of the exemption granted to this
institution, and notice was issued to the trustee to produce before
the Divisional Commissioner during his camp at Mangalore in August
1944, the account books of the devasthanam for the three back
fashis and certain other papers. The trustee appeared before the
Divisional Commissioner on 24-8-44 at Mangalore with his advocate
but did not produce the account books etc. called for. He however
agreed to produce them before the Assistant Commissioner, Hindu
Religious Endowments, Mangalore when he next visited the Devasthanam.
The Assistant Commissioner, Hindu Religious Endowments, Mangalore
submitted a report on 10-2-45 that he camped with the Commissioner
Rao Bahadur Sri C.M.Ramachandra Chettiar at Dharmastala on 24-11-44
and requested the trustee to produce the accounts etc. but that
the trustee failed to do so, that he understood that proper accounts
were not kept, that the trustee treats the temple as his private
concern and that the Government might be addressed to revoke the
exemption.

✓ The matter of the re-examination of the exemption was then
posted for hearing before the Board at Madras on 6-8-1945 and notice
was issued to the trustee. On the said hearing date, the trustee
appeared by counsel and filed a statement that, in view of the
total exemption granted by the Government the enquiry started by the
Board is ultra vires of its powers, that the temple is a private one
and that no grounds have been made out to merit revocation of the
Government Order granting the total exemption of the institution.

Q The need for continuance or otherwise of the exemption
granted can be ascertained and decided upon only after a proper and
thorough enquiry. Exempted institutions do not stand on the same
footing as private institutions to which the Act does not apply.
The Board has jurisdiction to enquire into cases of exempted insti-
tutions in respect of which there has been no declaration by the Board

under section 84 of the Act or by any competent Civil Court that they are not institutions as defined in the Act. There can, therefore, be no bar to an enquiry by the Board to satisfy itself whether the management of the exempted institution justifies the continuance of the exemption from the operation of the Act either partly or wholly and, for this purpose, to calling upon the trustee to produce accounts, and other records. For the same reason, the Government also have the power to cancel or vary the exemption on the recommendation of the Board, irrespective of the fact whether the exemption granted is partial or total as in this case.

4 The trustee had contended at the time of the grant of the exemption by the Government that the temple was a private one to which the Act does not apply. The Board was not satisfied on the facts admitted by the trustee's petition for exemption that a case was made out for holding the temple as outside the scope of the Act but observed that if the trustee was serious he could file a petition before the Board for a declaration to that effect under Section 84 of the Act. The trustee, however, desisted from filing such a petition, but has accepted, without demur, all these years, the order of the Government exempting the institution from the provisions of the Act. It follows from this that the trustee has consented to the temple being treated as a public one coming under the jurisdiction of the Board.

5 From the records available with the Board, it does not appear that there is a prima facie case to treat this institution as a private one outside the scope of the Act. But an opportunity will have to be given to Sri D. Manjaya Hegde, the trustee, to prove his case by satisfactory evidence and for this purpose an enquiry will have to be held by the Board under Section 84 of the Act and a decision given. The existence of the total exemption from the operation of the provisions of the Act in respect of this temple might be argued to be a bar to the Board holding such an enquiry under Section 84 of the Act. I have therefore the honour to request that the Government may be pleased to revoke the exemption granted to this institution in G.O.No. Mis. 4924 dated 19-11-1926 so as to enable the Board to hold a regular enquiry under Section 84 of the Act without involving itself in possible litigation. (E)

I have the honour to be, Sir,
Your most obedient servant,

S. S. Chinnings
President.

Edn d P. H. Sep 11

54
16/11

Memo 49118 F-2/45 P. H. dk 16-11-45.

H. R. E Act - Sri Manjunath Temple, Sharmastala Village, Puttur JK, S. Kanara St - Exemption from the operation of all the provisions of the Act - Cancellation.

b 1 c 1

Ref:- From the Pk H. R. E. Bd. no 44476/uu-5 dk 26-10-45.

It has been suggested —

b 2 n 1

~~the Govt. Consider~~ ^{behind} that, if the intention ~~of~~ the Pk proposal ^{is} to revoke the exemption granted to Sri Manjunath Temple, ~~is~~ only to enable the Board to hold an enquiry under Section 24 of the Act, it would be sufficient to modify the exemption so as to attract the operation of that section, instead of Cancelling the exemption order.

altogether. The P.H.R.E. Bd. is requested to offer his
remarks on this point.

12/11/45.

12/11/45.

16/11/45

p 2 11 f

12/11/45 to the P.H.R.E. Bd.

1 - DEC 1945

54885

Office of the Board of Commissioners
for Hindu Religious Endowments,
Cathedral Post, Madras.

Letter No. 44476/44-6-Adm dated 30-11-1945.

From

Rao Bahadur Sri T.M.Chinnaiya Pillai, M.A., B.L.,
President, Hindu Religious Endowments Board, Madras.

To

The Secretary to the Government of Madras,
Education and Public Health Department,
Fort St. George, Madras.

Sir,

Sub: Exemption - The Madras Hindu Religious Endowments Act, 1926
South Kanara District - Puttur Taluk - Dharmasthala village
Sri Manjunatha Temple - Cancellation.

Ref: Government Memorandum No. 49118-F-2/45 P.H. dated 16-11-1945

I have the honour to state that the intention of the Board in its suggestion to revoke the exemption granted to Sri Manjunatha temple is not solely to enable the Board to hold an enquiry under Section 84 of the Madras Hindu Religious Endowments Act, 1926.

2. An institution can be exempted from the operation of all the provisions of the Act only on the ground that the Board is satisfied that the manner of its management does not make the supervision, control of the Board comprehensive or stringent. The continuance of the exemption can be justified only by the subsisting operation of the same ground.

3. In the present case the Board is precluded from satisfying itself that its superintendence of the institution is not needed by the complete non-cooperation of the trustee who is ever emphatic in the re-assertion of the jurisdiction of the Board. The Board's Officers are denied access to its accounts and other relevant records. Even in response to an express requisition therefor, they have not produced them before the Divisional Commissioner, on the ground that the institution is the private property of the trustee. The trustee appears to be of the view that an exempted institution is on a par with a private institution. He does not appear to recognise the principle that the question of exemption from the operation of any of the provisions of the Act cannot arise unless the Act is applicable.

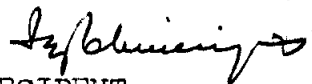
/P.T.O/

2.

4. In view of the uncompromising attitude of the trustee, the Board considers it necessary that the exemption from the operation of all the provisions of the Act should be in the first instance totally cancelled in order to enable it to have a full opportunity of acquiring first hand knowledge of the management of the institution. At present the Board is kept completely in the dark regarding the true state of affairs of the temple. The Board is not therefore in a position to submit that it will suffice if the institution is exempted from only one section (namely Section 84) of the Act. If after the cancellation of the exemption, the trustee raises a dispute on merits under Section 84 of the Act, the Board will have to decide the question whether the temple is excepted or non-excepted, public or private.

5. In these circumstances the Board is of opinion that any partial exemption will result in avoidable complications in view of the trustee's attitude and that full cancellation of the exemption is the only salutary course to be adopted.

I have the honour to be,
Sir,
Your most obedient servant,


PRESIDENT.

ESP/30/11/45.

02
30-11-45

E & P. H. Sep 1 (F)

~~(108) 10/12~~

H. R. E. Act - Sri Manjunath Temple, Sharmastala Village,
~~Patna, Bihar~~, S. Kanara St. - Exemption from the operation of
all the provisions of the Act - Cancelled.

p 24 (E)
p 1 c f
p 5 c f.

Read again :- G.O. no. 4924 P. H. dt. 19-11-26.

" also :- From the P. H. R. E. Bd. no. 44476/44-5 dt. 26/10/4
" " " " " " 44476/44-6 dt. 30/11/4

G.O. 3172 P. H. dt. 10.12.45
M'n

Under sub-section (a) of Section 5 of the Madras

H. R. E. Act, 1926 (Madras Act II of 1927), H. E. the Governor of

Madras hereby Cancels the exemption granted to the Sri
Manjunath Temple, Sharmastala Village, ~~Patna, Bihar~~,

p 24 (E)

~~Depd
12-12-45~~

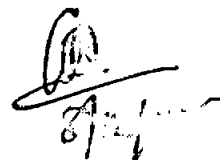
S. Kanara St. in G.O. no. 4924 P. H. dt. 9-11-26 ~~from the~~

~~operation of all the provisions of the Act~~

26 The P. H. R. E. Bd.
S/c for the S/F

PEV.
5/12/45.

JP
57215


8/12/45

Government of Madras.
Education and P.H. Department.
G.O. Ms. No. 3172-P.H., dated the 10th December 1945.

Abstract.

Hindu Religious Endowments Act - Sri Manjunath Temple, Dharmastala village, South Kanara District - Exemption from the operation of all the provisions of the Act - Cancelled.

Read the following:-

G.O.No. 4924-P.H., dated the 19th November 1926.
From the President, Hindu Religious Endowments Board, No. 44476-44-5., dated the 26th October 1945.
From -do- No. 44476-44-6., dated the 30th November 1945.

ORDER.

Under sub-section (a) of section 3 of the Madras Hindu Religious Endowments Act, 1926 (Madras Act II of 1927), His Excellency the Governor of Madras hereby cancels the exemption granted in G.O.No.4924-P.H., dated the 9th November 1926 to the Sri Manjunath Temple, Dharmastala village, South Kanara District.

(By Order of His Excellency the Governor).

G.O. Coorey,
Deputy Secretary.

to the President, Hindu Religious Endowments Board.
2.

ASR.

True copy.
Forwarded/By Order.

sc

Superintendent.

WAS

RSR: 28/10/45.

1 The Corporation shall have a technical advisory committee for the work. The technical committee shall normally advise the Board on any point the latter may refer to it. The Technical Secretary, shall be appointed by the Board. He and his staff will be under the supervision and control of the General Secretary. No information given by an applicant and referred to the technical committee shall be disclosed or used by any member of it or its Secretary and staff without the written consent of the applicant.

2 The Corporation shall have a technical advisory committee for the work. The technical committee shall normally advise the Board on any point the latter may refer to it. The Technical Secretary, shall be appointed by the Board. He and his staff will be under the supervision and control of the General Secretary. No information given by an applicant and referred to the technical committee shall be disclosed or used by any member of it or its Secretary and staff without the written consent of the applicant.

3

4

HINDU RELIGIOUS ENDOWMENTS ACT - Sri Manjunath Temple -
Dharmastala village - Puttur taluk - South Kanara District
Exemption from the operation of all the provisions of the
Act - CANCELLED.

C.No.49118. From the Pt. H.R.⁴.Board, No.44476/44-5 dated 26-10-45.

The President, Hindu Religious Endowments Board requests that the exemption from the operation of the Hindu Religious Endowments Act granted to Sri Manjunath Temple, Puthur Taluk, South Kanara district may be revoked so as to enable the Board to hold a regular enquiry under section 84 of the Act without involving itself in litigation.

It appears from para 2 of the President's letter, that at the time of the re-examination of the exemption granted to the temple in question on 6-8-45 the trustee filed a statement that in view of the total exemption granted by the Government the enquiry started by the Board was ultra vires of its powers that the temple was a private one and that no grounds were made out to ~~meet~~^{merit} the revocation of the G.O. granting the total exemption of the institution.

At the time of granting exemption to this temple the question was gone into at some length. Attention is invited to the minute of ^{the} late Chief Minister (the Rajah of Panagal) on pages 22-23 of G.O.No. 4924 dated 19-11-26. In view of the special circumstances governing the case, it is for orders whether the Government will accept the President's recommendation to revoke the exemption on a technical ground. A-2 may see.

A-2 may see.

J. S.
7/11/45

The Plaintiff ^{the} exemption ~~and is not~~
~~from section~~ revoked only for a particular
purpose viz to enable to Bd. to hold an enquiry
under § 84 and also to find out whether
the exemption granted before, should continue
The revocation will only be temporary

and will last till the Bd. completes its enquiry.
Further, it may be decided to what extent exemption
could be granted.

As the temple authorities are ~~proposing~~ obstructive
the Pt. wants to avoid possible litigation and also,
at the same time, necessary that the Bd. should
induct this enquiry. The Pt's proposal may be accepted.
Legal may see before circ.

Geo
8/11/45

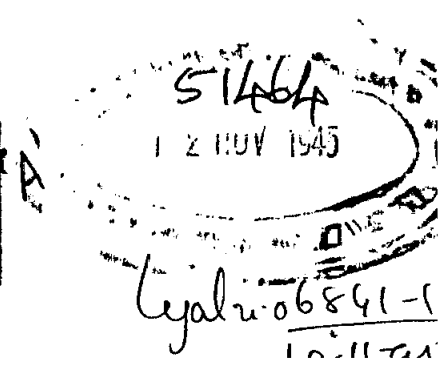
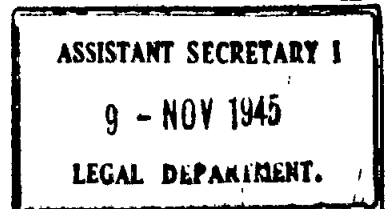
Legal Department.

E & P. H.

Legal U.O. 49118 F-1/
8-11-45.

6841

Section 3 of the Madras Hindu Religious Endowments
Act, 1927, empowers the Government to exempt any endowment
from the provisions of the Act or to vary, alter or
cancel such exemption. By virtue of this provision it is
open to the Government to vary, alter or cancel the
exemption granted to the temple in question. If the
intention is only to enable the Board to hold an enquiry
under section 84 of the Act, it would be sufficient to
modify the exemption so as to attract the operation of
that section, instead of cancelling the exemption order
altogether.



MP
10.11.45 E & P. H.

E & P. H. (F)

Please see the note of the Legal Dept above. For orders
other than suggestion at 'A' above may be accepted. ~~the file~~
~~is circulated to A2~~. For use whether the Pt.
may be consulted. A2 may see.
Pt. may first be consulted.

Rev.
12/11/45.
5/11/45

Geo
13/11/45

~~As draft memo is submitted for approval.~~

Geo
16/11/45

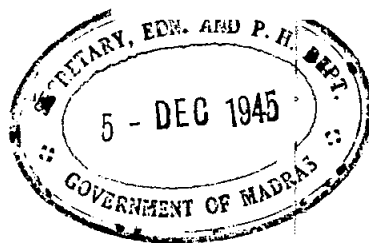
Rev.
14/11/45.
5/11/45

From the P. H. R. E. Bd. No. 44476/44-6 dt 30-11-45.

The P. H. R. E. Bd. is of opinion that any partial exemption will result in unavoidable complications in view of the Trustees' attitude and that full cancellation of the exemption is the only salutary course to be adopted. In the circumstances stated by him, it is for orders whether his proposal to cancel the exemption altogether may be accepted.

The President's proposal may be accepted.

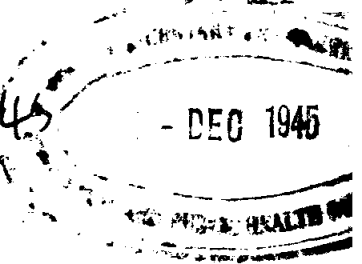
Bel.
5/12/45.
JH
3/2/45



ce/2/45

Yes
8/12/45

A₂



A draft order is submitted.

Bel.
5/12/45.
JH
5/2/45

ce/2/45
8/12/45